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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,855

06/02/2004

John L. Andersen

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20915

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07/18/2007

MCGARRY BAIR PC

32 Market Ave. SW

SUITE 500

GRAND RAPIDS, MI 49503

EXAMINER

FIDEI, DAVID

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

07/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,855

Applicant(s)

ANDERSEN, JOHN L.

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 12, 13, 21-23, 25-27, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 6-11, 24 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 6, 2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 and 6-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A display panel is recited as adapted to bear indicia where it is not clear if the indicia is a part of the claimed subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1, 2, 13, 21-23, 25, 26, 27, 29 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Sax et al (US Patent no. 6,932,265). A container for shipping and displaying contents is disclosed in figures 6 and 7 comprising a first end having at least one panel 30 selectively movable from a flat blank to close the first end. A display panel is formed by front wall 12 that is adapted to bear indicia inasmuch as the panel can be printed with such indicia if so desired. Break away assist panel 50 forms a closure panel movable between a closed position shown in figure 6 and an open position in figure 7 wherein the opening and display panel defined by the un-removed portion of panel 12 are exposed. Contents of the container can be shipped when the closure panel 50 is secured in the closed position and the contents of the container and any indicia on the display panel 12 can be viewed by moving the closure panel to the open position of at least figure 7.

As to claims 2, top, bottom and side panels are defined in figures 6 and 7 where the display and closure panel 50 extends from a hinge defined between bottom portion 52 and middle portion 54.

As to claim 13, the display panel comprises a bottom portion below the opening shown in figure 7 and two side portions on either side of the opening.

As to claims 21 and 22, corrugated paperboard is disclosed in col. 5, lines 57, 58 and col. 6, line 27 of Sax et al.

As to claim 23, panel 12 with the removed portion defines more than one side in that three sides of the opening is defined.

6. Claims 1-4 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda et al (US Patent no. 5,622,309). A container for shipping and displaying contents is disclosed in figures 9 and 10 comprising a first end having at least one panel 1a selectively movable from a flat blank to close the first end. A display panel is by panels 2a, 3a that is adapted to bear indicia inasmuch as the panel can be printed with such indicia if so desired. Front flap 5 forms a closure panel movable between a closed position shown in figure 8 and an open position in figures 10 and 11 wherein the opening and display panel defined by the un-removed portion of panels 2a,

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3a are exposed. Contents of the container can be shipped when the closure panel 5 is secured in the closed position and the contents of the container and any indicia on the display panel 2a, 3a can be viewed by moving the closure panel to the open position of at least figures 10 and 11.

As to claims 2, the display panels extend from a hinge on the side panels and closure panel 5 extends from a hinge on the bottom panel as shown in figure 10.

As to claims 3 and 4, the closure panel 5 is secured away from the hinge at tab 13.

As to claim 12, the first end comprises full overlap panels 4a, 3a, 1a and 2a.

Allowable Subject Matter

7. Claims 6-11, 24 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


8. Claims 14-20 are allowed.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 2724562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David T. Fider
Primary Examiner
Art Unit 3728

Dtf
July 11, 2007